

December 7, 2022.

3. In an Order dated December 15, 2022, the Court authorized the parties to engage in certain limited discovery. *See* Dkt. No. 36. The Court noted, however, that “[t]his allowance of discovery may be terminated upon the filing of an appellate decision determining Pennsylvania Law on the issues presented by this case.” *Id.* at 2.

4. On January 6, 2023, the Third Circuit issued its decision in *Wilson*.

5. On January 9, 2023, this Court issued an Order permitting the Parties to “file a memorandum by January 17, 2023 . . . concerning the impact of” *Wilson* on Hartford Fire’s pending motion to dismiss in this case. *See* Dkt. No. 37.

6. The Parties filed briefs addressing *Wilson* on January 17, 2023. *See* Dkt. Nos. 38, 39.

7. On January 20, 2023, the plaintiffs-appellants in *Wilson* filed a petition for rehearing en banc and certification to the Supreme Court of Pennsylvania on the issue of whether COVID-19 can constitute “physical loss” under Pennsylvania law.

8. While Hartford believes the Court could grant the pending motion now for all of the reasons previously expressed in the briefing related to the motion to dismiss, Plaintiffs believe that, given the division of the en banc judges of the Pennsylvania Superior Court in *Ungarean v. CNA & Valley Forge Ins. Co.*, Nos. 490 WDA 2021, 948 WDA 2021, 2022 Pa. Super. LEXIS 467 (Pa. Super. Nov. 30, 2022) (en banc) and *MacMiles, LLC v. Erie Ins. Exchange*, No. 1100 WDA 2021, 2022 Pa. Super. LEXIS 469 (Pa. Super. Nov. 30, 2022) (en banc), it is important for this Court to ascertain whether en banc review and potential review by the Supreme Court of Pennsylvania will be granted and, if so, the outcome of same prior to issuing a ruling. Therefore, to conserve party and judicial resources and avoid potentially unnecessary, costly, and time-

consuming discovery and possible discovery-related motion practice, the Parties believe discovery should be stayed until after the Third Circuit mandate issues in *Wilson*.

9. This motion is not made for purposes of unnecessary delay, and no Party will be prejudiced if this motion is granted.

Accordingly, for the foregoing reasons, the Parties respectfully request that this Court issue an Order staying discovery and all other deadlines in this case until after the Third Circuit issues its mandate in *Wilson*.

Pursuant to Local Civil Rule 7.1(b), undersigned counsel for the Parties certify that this motion is being submitted jointly on behalf of all Parties and, as such, is uncontested.

Dated: January 30, 2023

s/ Marni S. Berger

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing was served on all parties by CM/ECF on January 30, 2023.

/s/Richard D. Gable, Jr.